MISSOURI PACIFIC RAILWAY COMPANY v. McGREW COAL COMPANY.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

No. 265. Argued March 1, 1921.—Decided April 11, 1921.

1. The Missouri long-and-short-haul statute is constitutional. P. 135. *Missouri Pacific Ry. Co.* v. *McGrew Coal Co.*, 244 U. S. 191.
2. Whether under the statute a shipper may recover overcharges which he did not himself pay is a question of state law. P. 135.

280 Missouri, 466, affirmed.

THE case is stated in the opinion.

Mr. Edward J. White, with whom *Mr. James F. Green* and *Mr. Harvey C. Clark* were on the briefs, for plaintiff in error. They contended that the statute imposed an unreasonable burden on interstate commerce; that its enforcement deprived the company of property without due process of law and denied it the equal protection of the laws in violation of the Fourteenth Amendment; and that, as the statute only gave a right of action to the party aggrieved, a recovery could not be allowed to a shipper whose consignee paid the charges.

Mr. Edwin A. Kreutzhoff, with whom *Mr. Z. Lewis Dalby*, *Mr. William S. McClintock* and *Mr. Arthur L. Quarel* were on the brief, for defendant in error.

Memorandum opinion by direction of the court, by MR. JUSTICE BRANDEIS.

In this action by a shipper brought under the long-and-short-haul statute of Missouri a judgment for the over-

charges entered by the trial court was affirmed by the highest court of the State.

The case comes here on writ of error, the railroad contending that the statute as construed violates rights secured to it by the Federal Constitution. The only federal question which was substantial and properly raised below was decided adversely to the railroad's contention in *Missouri Pacific Ry. Co.* v. *McGrew Coal Co.*, 244 U. S. 191, a case between the same parties and involving transactions precisely similar. The objection now made, that the shipper did not pay freight charges and, therefore, was not damaged, raised no substantial federal question but a question of state law which we have no jurisdiction to review. See *Osborne* v. *Gray*, 241 U. S. 16, 20.

Affirmed.